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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/796,178      | 03/10/2004  | Kiyoharu Nishiyama   | 250026US2 DIV       | 3502             |

22850 7590 06/02/2006

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ALEXANDRIA, VA 22314

EXAMINER

HOYE, MICHAEL W

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2623

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/796,178 | Applicant(s)<br>NISHIYAMA ET AL. |  |
|                              | Examiner<br>Michael W. Hoye   | Art Unit<br>2623                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/238,639.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/15/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicants' arguments filed on March 20, 2005 have been fully considered but they are not persuasive.

Regarding amended independent claim 1, as well as new independent claim 13, the Applicants argue on page 7 of the Remarks section that:

...Applicants respectfully submit that Nemirofsky teaches distributing advertising programs having the same contents to various shops at various locations at various times, which is different from the delivery system of Claim 1, which delivers a program that differs from terminal to terminal depending on the attribute information of each terminal. In other words, the delivery system of Claim 1 identifies the contents to be delivered to a terminal apparatus based on the attribute information while the device of Nemirofsky does not identify the contents based on attribute information.

And, in summary, the Applicants further argue on page 8 that, "Therefore, Nemirofsky does not teach or suggest a content-delivery unit that identifies contents to be delivered based on attribute information indicative of at least one characteristic of a terminal apparatus as required by Claims 1 and 13."

In response, the Examiner respectfully disagrees with the Applicants because while Nemirofsky teaches, "distributing advertising programs having the same contents to various shops...", Nemirofsky also teaches that programs, advertising or "contents" may be targeted and customized based on individual receivers in stores, sections of store aisles, geographic regions or location, etc. (see pg. 20, line 27 – pg. 21, line 12; pg. 31, lines 2-14 & pg. 36, lines 1-12, see attributes including receiving site description and location, modem phone number, etc., as well

as, delivering update data and/or real time live interrupts, such as a weather forecast, for example).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 8-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nemirofsky et al (WO 94/03995), cited by the Examiner.

As to claim 1, note the Nemirofsky et al reference which discloses a delivery system for delivering a plurality of contents. The claimed center system configured to deliver the plurality of contents is met by the uplink control system (UCS) 4 in the distribution center (DC) as shown in FIG. 1 (pg. 8, lines 10-18). The claimed plurality of terminal systems configured to receive the plurality of contents from the center system and to display the plurality of contents is met by the receiving sites (RS) with television(s) 14 as shown in FIG. 1 (pg. 8, lines 18-25). The claimed communication lines connecting said center system to said plurality of terminal systems and configured to transmit the plurality of contents is met by the data communication link 15 in FIG. 1 (pg. 8, lines 22-25) and non-satellite forms of distribution, such as cable or other types of communication lines (see pg. 40, lines 10-12). The claimed wherein said center system comprises a delivery-schedule setting unit configured to set a schedule of delivery of the plurality of contents is met by traffic control computer 24 in FIG. 2, which allows for the setting

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of sequencing, timing, and distribution or delivery scheduling (see pg. 9, line 37 – pg. 10, line 4).

The claimed content-delivery unit configured to identity the contents to be delivered to a terminal apparatus based on attribute information indicative of at least one characteristic of the terminal apparatus and to deliver the contents to the terminal apparatus is met by the system control computer 26 in FIG. 2, which controls playback control unit 34 that actuates playback devices 32 upon receiving a signal from the system control computer (see pg. 8, line 36 – pg. 9, line 20; pg. 9, line 35 – pg. 10, line 9; and pg. 36, line 34 – pg. 37, line 9), and by the traffic control computer 24 (located in UCS 4, see FIG. 2), which stores and controls terminal-attribute information in a database (see pg. 19, lines 1-25; pg. 20, line 30 – page 21, line 7, also see pg. 10, line 27 – pg. 11, line 5), where the trafficking system schedules and sequences programming segments based on desirable receiver attributes (pg. 31, lines 2-14 & pg. 36, lines 7-12), and delivers the contents to selected terminal systems (see pg. 24, lines 4-5, and pg. 36, lines 7-9). More specifically, Nemirofsky teaches that programs, advertising or “contents” may be targeted and customized based on individual receivers in stores, sections of store aisles, geographic regions or location, etc. (see pg. 20, line 27 – pg. 21, line 12; pg. 31, lines 2-14 & pg. 36, lines 1-12, see attributes including receiving site description and location, modem phone number, etc., as well as, delivering update data and/or real time live interrupts, such as a weather forecast, for example).

As to claim 8, the claimed delivery system as claimed in claim 1, further comprising an output schedule setting unit configured to set an output schedule as the attribute information of the terminal apparatus, said output schedule defining a schedule according to which the contents to be delivered to and stored at the terminal apparatus are displayed at the terminal apparatus,

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and wherein the output schedule set by the output schedule setting unit is transmitted to the terminal apparatus is met by the sections of the Nemirofsky reference specifically directed to the system control computer 26 and the traffic control computer 24 as described above in claim 1.

As to claim 9, the claimed delivery schedule setting unit is configured to set a delivery schedule as the attribute information of the terminal apparatus, said delivery schedule defining a schedule according to which contents are delivered during a low utilization period in which a utilization of the terminal apparatus drops below a predetermined level is met by updates that may be sent nightly while most retail stores are closed (see pg. 37, lines 9-21).

As to claim 10, the claimed delivery schedule setting unit derives the utilization of the terminal apparatus based on a preset output schedule is met by the traffic system located in UCS 4 as described above (see pg. 31, line 1 – pg. 32, line 34, also see pg. 22, lines 23-31 and pg. 23, line 34 – pg. 24, line 5).

As to claim 11, the claimed delivery schedule setting unit includes a delivery scheduling function to control the delivery of the contents identified for the terminal apparatus based on the delivery schedule already set for the terminal apparatus and the output schedule already transmitted to the terminal apparatus is met by the traffic system located in UCS 4 as described above, and more specifically by the playlist function (see pg. 31, line 1 – pg. 32, line 34).

As to claim 12, the claimed delivery schedule setting unit is provided with a function to modify a currently effective delivery schedule, and wherein when the delivery schedule is to be newly set for the terminal apparatus to deliver new contents to the terminal apparatus, said function derives an available time according to the output schedule and the delivery schedule and a time required to deliver the contents based on the output schedule and delivery schedule

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currently set for the terminal apparatus and the low utilization period of the terminal apparatus is met by the traffic system located in UCS 4 as described above, and more specifically by the playlist function, as well as store forward and nightly updates functionality (see pg. 31, line 1 – pg. 32, line 34 and pg. 36, line 34 – pg. 37, line 21).

As to claims 13-18, the claims are rejected based on similar grounds as described in the rejection of claims 1 and 8-12 respectively.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael W. Hoye  
May 23, 2006



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600